

EXHIBIT "A"

140476/140481 PJO/la

IN THE COURT OF COMMON PLEAS

COLUMBIANA COUNTY, OHIO

State Farm Fire & Casualty Company
P.O. Box 106173
Atlanta, GA 30348

CASE NO.: 24CV68

JUDGE: SCOTT WASHAM

Plaintiff

vs.

Norfolk Southern Railroad Company
650 W. Peachtree St. N.W.
Atlanta, GA 30308-1925

COMPLAINT

and

Norfolk Southern Corporation
650 W. Peachtree St. N.W.
Atlanta, GA 30308-1925

Defendants

COUNT ONE

1. On February 3, 2023, and at all times material herein, Plaintiff was the insurer, assignee, and subrogee of Justin Daubenmire, who was the owner of the real and property located at 521 E. Main Street in East Palestine, Ohio.

2. At all times material herein, Defendant Norfolk Southern Railroad Company (NSR) is a Class I railroad organized and existing under the laws of the Virginia, with its principal place of business in Norfolk, Virginia. NSR is a wholly owned subsidiary of Defendant Norfolk Southern Corporation, which is organized and existing under the laws of Virginia, with its principal place of business in Atlanta, Georgia.

3. At all times material herein, NSR operates approximately 19,300 route miles in 22 states in the District of Columbia, including the railroad tracks in and around East Palestine, Columbiana County, Ohio, and serves every major container port in the eastern United States.

4. On February 3, 2023, at approximately 9:00 p.m., a train operated by NSR traveling from Illinois to Pennsylvania derailed in and around the City of East Palestine, Columbiana County, Ohio. Approximately 100 cars derailed, including numerous railcars carrying hazardous materials, including vinyl chloride. The hazardous chemicals and materials ignited resulting in a fire which created toxic fumes, smoke and soot.

5. The derailment and subsequent chemical fire was the direct and proximate result of the negligence of Defendants in the inspection, maintenance and operation of the subject train and its railcars, defects in NSR's track system and/or defects in one or more of the railcars.

6. As a result of the derailment, fire and chemical spill, an immediate evacuation of all homes and businesses in a one to two-mile radius of the incident site was initiated.

7. As a direct and proximate result of the negligence of the Defendants, Plaintiff insured's real property was damaged requiring replacement and/or repair in the amount of \$32,025.75.

8. As a direct and proximate result of the negligence of the Defendants, Plaintiff insured's personal property was damaged requiring replacement and/or repair and/or destruction in the amount of \$39,374.47.

9. Plaintiff made payment to or on behalf of its insured Justin Daubenmire in the amount of \$74,199.22, subject to a \$2,799.00 deductible, and became subrogated to said amount.

COUNT TWO

10. Plaintiff reiterates and realleges paragraphs 1 through 9 as if fully rewritten and restated herein.

11. On February 10, 2023, and at all times material herein, Plaintiff was the insurer, assignee, and subrogee of Barbara Georgescu, who was the owner of personal property located at 274 Alice Street in East Palestine, Ohio.

12. On February 3, 2023, at approximately 9:00 p.m., a train operated by NSR traveling from Illinois to Pennsylvania derailed in and around the City of East Palestine, Columbiana County, Ohio. Approximately 100 cars derailed, including numerous railcars carrying hazardous materials, including vinyl chloride. The hazardous chemicals and materials ignited resulting in a fire which created toxic fumes, smoke and soot.

13. The derailment and subsequent chemical fire was the direct and proximate result of the negligence of Defendants in the inspection, maintenance and operation of the subject train and its railcars, defects in NSR's track system and/or defects in one or more of the railcars.

14. As a result of the derailment, fire and chemical spill, an immediate evacuation of all homes and businesses in a one to two-mile radius of the incident site was initiated.

15. As a direct and proximate result of the negligence of the Defendants, Plaintiff insured's personal property was damaged requiring replacement and/or repair in the amount of \$13,051.06.

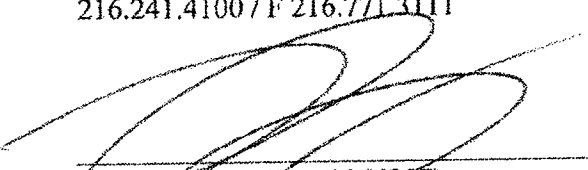
16. Plaintiff made payment to or on behalf of its insured Barbara Georgescu in the amount of \$13,051.06, subject to a \$500.00 deductible, and became subrogated to said amount.

WHEREFORE, Plaintiff demands judgment against the Defendant jointly and/or severally as follows:

As to Count I, Plaintiff demands judgment in the amount of \$74,199.22, plus statutory interest, plus the costs of this action; and

As to Count II, Plaintiff demands judgment in the amount of \$13,051.06, plus statutory interest, plus the costs of this action.

KEIS | GEORGE llp
Attorneys for Plaintiff
55 Public Square, #1900
Cleveland, Ohio 44113
216.241.4100 / F 216.771.3111



Patrick J. O'Malley (0064987)
Herbert L. Nussle (0063551)

**COURT OF COMMON PLEAS
COLUMBIANA COUNTY, OHIO**

CASE DESIGNATION - CIVIL CASE TYPE

STATE FARM FIRE & CASUALTY COMPANY

Case No.: 24CV68

VS

NORFOLK SOUTHERN RAILROAD COMPANY,

SCOTT WASHAM

A. PROFESSIONAL TORT

☐ PROFESSIONAL TORT
☐ LEGAL MALPRACTICE
☐ MEDICAL MALPRACTICE
☐ PERSONAL INJURY
☐ WRONGFUL DEATH

B. PRODUCT LIABILITY

☐ PRODUCT LIABILITY
☐ PERSONAL INJURY
☐ WRONGFUL DEATH
☐ LEMON LAW
☐ ASBESTOS CASES

C. OTHER TORT

☒ OTHER TORT
☐ PERSONAL INJURY
☐ VEHICLE ACCIDENT
☐ WRONGFUL DEATH

D. WORKER'S COMPENSATION

☐ APPEAL BUREAU OF WORKER'S COMP
☐ NONCOMPLAINACE BUR. WORKERS' COMP

E. FORECLOSURE

☐ FORECLOSURE
☐ FORECLOSURE (TAXES)

F. ADMINISTRATIVE APPEAL

☐ ADMINISTRATIVE APPEAL
☐ CIVIL SERVICE
☐ LIQUOR
☐ MOTOR VEHICLE
☐ TAXES
☐ UNEMPLOYMENT
☐ ZONING

H. OTHER CIVIL

☐ APPROPRIATION
☐ ACCOUNTING
☐ BEYOND JURISDICTION
☐ BREACH OF CONTRACT
☐ CANCEL LAND CONTRACT
☐ CHANGE OF VENUE
☐ CLASS ACTION
☐ CONSUMERS SALES ACT
☐ CONVEY DECLARED VOID
☐ DECLARATORY JUDGMENT
☐ DELINQUENT TAX
☐ DISCHARGE MECHANIC LIEN
☐ DISSOLVE PARTNERSHIP
☐ HABEUS CORPUS
☐ INJUNCTION
☐ MANDAMUS (RIGHT OF WAY)
☐ ON ACCOUNT
☐ PARTITION
☐ QUIET TITLE
☐ REPLEVIN
☐ SALE OF REAL ESTATE
☐ SPECIFIC PERFORMANCE
☐ RESTRAINING ORDER
☐ TESTIMONY
☐ FOREFEITURE
☐ COGNOVIT
☐ MONEY ONLY
☐ SEIZURE WARRANT

I. CRIMINAL

SUBMITTED BY:

/s/ Patrick J. O'Malley

02/22/2024

Court of Common Pleas, Columbiana County, Lisbon, Ohio

Summons

Rule 4 1970, Ohio Rules of Civil Procedure

Case No.: 2024 CV 00068

STATE FARM FIRE & CASUALTY COMPANY
PO BOX 106173
ATLANTA, GA 30348

SCOTT A WASHAM
JUDGE
Summons on Complaint

Plaintiff(s)

VS.

NORFOLK SOUTHERN RAILROAD COMPANY
650 W PEACHTREE ST. N. W.
ATLANTA, GA 30308

Defendant(s)

FILED
Columbiana County Common Pleas Court
February 22, 2024
ANTHONY J. DATTILIO
CLERK OF COURTS

To the below named Defendant(s):
NORFOLK SOUTHERN RAILROAD COMPANY
650 W PEACHTREE ST. N. W.
ATLANTA, GA 30308

You are hereby summoned that a complaint (a copy of which is hereto attached and made a part hereof) has been filed against you in this Court by the Plaintiff(s) named herein.

You are required to serve upon the Plaintiff's Attorney, or upon the Plaintiff if no attorney of record, a copy of your answer to the complaint within 28 days after service of this summons upon you, exclusive of the day of service. Said answer must be filed with this Court within three (3) days after service on Plaintiff's Attorney.

The name and address of the Plaintiff's Attorney is as follows:

PATRICK J O'MALLEY ESQ.
55 PUBLIC SQ., SUITE 1900
CLEVELAND, OH 44113

(216)241-4100 (W)

If you fail to appear and defend, judgment by default will be taken against you for the relief demanded in the complaint.

Witness, My signature and seal of said Court on this February 22, 2024,

Certified Article Number

9414 7266 9904 2220 7197 12

SENDER'S RECORD



9590 9266 9904 2220 7197 15



Anthony J. Dattilio
105 South Market Street
Lisbon, Ohio 44432

Anthony J. Dattilio

Deputy Clerk

Court of Common Pleas, Columbiana County, Lisbon, Ohio

Summons

Rule 4 1970, Ohio Rules of Civil Procedure

Case No.: 2024 CV 00068

STATE FARM FIRE & CASUALTY COMPANY
PO BOX 106173
ATLANTA, GA 30348

SCOTT A WASHAM
JUDGE

Summons on Complaint

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Defendant(s)

FILED

Columbiana County Common Pleas Court

February 22, 2024

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CLERK OF COURTS**

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650 W. PEACHTREE ST. N. W.
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Certified Article Number

9414 7266 9904 2220 7197 05

SENDER'S RECORD



Anthony J. Dattilio
105 South Market Street
Lisbon, Ohio 44432

Anthony J. Dattilio

Deputy Clerk



9590 9266 9904 2220 7197 08

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Domestic Mail Only

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NORFOLK SOUTHERN RAILROAD COMPANY
650 W PEACHTREE ST. N.W.
ATLANTA, GA 30308

Reference Information

COLUMBIANA COMMON PLEAS

2024 CV 00068

8.69

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USPS® ARTICLE NUMBER

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**COLUMBIANA COUNTY
COURT OF COMMON PLEAS**

Return Receipt (Electronic)

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ANTHONY G. BATILLO
8.69

Sent to:

CLERK

**NORFOLK SOUTHERN CORPORATION
650 W. PEACHTREE ST. N. W.
ATLANTA, GA 30308**

Reference Information

COLUMBIANA COMMON PLEAS

2024 CV 00068

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